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FOR RICH O'BRIEN
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USTR FOR CHINA OFFICE - TSTRATFORD, AWINTER, TWINELAND; IPR OFFICE - RBAE; AND
OCG - TPOSNER
NSC FOR LOI, SHRIER
DOC FOR NATIONAL COORDINATOR FOR IPR ENFORCEMENT - WPAUGH
DOC FOR ITA/MAC - SZYMANSKI, YOUNG
LOC/COPYRIGHT OFFICE - STEPP
USPTO FOR INT'L AFFAIRS - LBOLAND
DOJ FOR CCIPS - TNEWBY
FBI FOR LBRYANT
DHS/ICE FOR IPR CENTER - DFAULCONER
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SUBJECT: SHANGHAI AUTHORITIES ON TRANSPORTATION SECURITY, IPR AND
PRODUCT SAFETY

11. (SBU) Summary: During a February 15-18 visit to Shanghai, a delegation of 11 U.S. Senate Finance Committee staff members and 4 U.S. Customs and Border Protection (CBP) officials engaged representatives from Shanghai Customs, Shanghai Entry-Exit Inspection and Quarantine Bureau (CIQ), China Shipping Group and AmCham Shanghai on a wide range of trade-related issues. Shanghai Customs outlined its work to reduce clearance time, improve risk management, and fight intellectual property (IP) infringement. CIQ officials reviewed the processes for ensuring inspection procedures conform to the standards of the importing country. In conjunction with the CIQ meeting, the delegation also toured a factory with CIQ to see first hand how the agency carries out its inspection process prior to shipment. In a separate meeting, U.S. business representatives said that they in principle welcome new U.S. security measures, but voiced concerns about implementation and encouraged CBP to more widely disseminate information about the measures. Representatives from China Shipping Group (CSG), China's second largest shipping conglomerate said new U.S. security measures had created some problems, such as increased costs, but added they also provide benefits such as increased cooperation from CBP. CSG also urged CBP to more widely disseminate information about new shipping security measures. The delegation also toured the Consulate's Consular Section and discussed a range of issues, including the problems created by the long delay in Security Advisory Opinions (SAO). End Summary.

Shanghai Customs Boosts Efficiency through Risk Management

12. (SBU) Shanghai Customs Director for Supervision and Clearance Yang Danghong noted that since 1998, Shanghai Customs reduced the average clearance time for both imports and exports from 72 to 48 hours. Average clearance time for goods originating in the Shanghai bonded zone is now 2.5 hours. To reduce the clearance time and facilitate trade, Shanghai Customs initiated E-Customs, E-GACC (General Administration of China Customs), and the E-Port systems. The H200 System is an internet-based data management system, and the E-Port Initiative is a program that allows shippers to file customs data on-line. In 2002, Shanghai Customs introduced the paperless system, which allows all data to be submitted and cleared electronically. Shippers provide paper based documents for archiving purposes only after the goods arrive and are released. Yang emphasized that the data points in the paperless system are the same as under the previous system. As of 2007, shippers with a good record are no longer required to submit the paper documents; they only need to retain the documents for periodic auditing by Customs. Shanghai Customs also implemented the "5 plus 2" system, meaning Customs offices operate five working days plus weekends at the Shanghai Shipping Center for ocean freight and Shanghai Pudong Airport for air freight.

13. (SBU) When asked about targeting measures, Shanghai Customs Foreign Affairs Office Director Ding Ye replied that Shanghai Customs' risk management is similar to that of other countries - it is mainly driven by a risk score of both the exporter and the commodity involved. Since Shanghai Customs is responsible for approximately a quarter of all of China's imports and exports, risk management is essential to the expeditious clearance

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process. Every exporting entity is given a risk score based on its record of duty payment, trading volume, and safety and security related indicators. Those companies that are deemed to have the highest degree of credibility are given faster clearance. These companies must operate under certain standards and sign agreements that they will uphold all Shanghai Customs regulations. For companies with bad records, the highest degree of scrutiny is given. The same system applies to goods as well, which are divided into five categories. The most "risky" shipments all require manual inspection. Shanghai Customs Legal Affairs officer Xu Rongyi emphasized that Customs does not handle safety inspections of exported and imported products; it only clears the goods once CIQ approval is received. CIQ determines which types of goods need quality inspection and lists them in a catalog, which Shanghai Customs uses to determine which shipments require inspections.

Shanghai Customs Welcomes IP Cooperation from All Sources

14. (SBU) Regarding intellectual property (IP) protection, Shanghai Customs Intellectual Property Office Director Xu Feng said that Shanghai Customs attaches great importance to screening for IP infringement. Most of the IP-related cases detected by Shanghai Customs involve the infringement of trademarks. Over the past year, Shanghai Customs has focused a great deal of attention on protecting the logos from the Olympics and Shanghai's 2010 World Expo. Shanghai Customs also works closely with other IP agencies to protect IPR, including the Administration of Industry and Commerce, the Copyright Bureau and the IP Administration. Xu emphasized that Shanghai Customs welcomes collaboration with rights holders and welcomes information on infringement. Xu also urged U.S. rights holders to register their trademarks with Customs to ensure their rights are adequately protected.

15. (SBU) Shanghai Customs also uses its risk management system to target shipments with a high likelihood of IP infringement. On copyright issues, GACC works closely with the Motion Picture Association of America (MPAA) and the International Federation of Phonographic Industry (IFPI). GACC has a memorandum of

understanding (MOU) with MPAA to combat pirated optical disc products. Shanghai Customs also partners with rights holders in training courses and other events to increase the IP awareness and capacity of its officers. Although Shanghai Customs does not keep examples of all trademarks on file, it does publish booklets for line officers and provides access to a database of files on how to identify counterfeits. Shanghai Customs does keep some samples of commonly pirated goods at the ports to help inspectors recognize pirated goods. Xu also welcomed further cooperation from the United States on IP training for Customs officers.

CSI Working Well, Megaports Still on Hold

16. (SBU) Regarding the U.S. Container Security Initiative (CSI), Ding stated the program works well, and Shanghai Customs welcomes further cooperation on the program. Thus far, Shanghai Customs has not discovered any problematic shipments as a result

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of CSI-initiated investigations. When asked about continuation of the Megaports Initiative, which was halted in October due to "arms sales to Taiwan," Ding replied that the GACC in Beijing has not yet given the green light to resume work on this cooperative project.

CIQ Works to Meet the Standards of the Importing Country

17. (SBU) In a meeting with Shanghai CIQ officials, Deputy Director General Xu Chaozhe explained CIQ's role in protecting food and product safety in the import/export process. CIQ was established in 1999 when three departments, the Import and Export Commodity, Animal Exit and Entry, and Health and Human Safety Bureaus merged. Shanghai CIQ's main responsibility is to inspect products based on safety, health and environmental regulations. General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ) publishes a yearly catalog listing types of products that are subject to import/export inspection. Although the catalog is updated on a yearly basis, AQSIQ has a mechanism to update new standards and guidelines for products as necessary. Products are also occasionally added to or removed from the list during the year as necessary. These changes are often made as AQSIQ receives information about Chinese products that encounter problems at overseas ports. For those products that are listed in the catalog, each batch is inspected by random sampling - the higher the product risk, the higher percentage of random sampling. Xu emphasized, however, that random sampling does not necessarily mean laboratory testing. For imports, CIQ takes a certain percentage of the shipment for random sampling regardless of the country of origin. However, if a certain country or certain company that exports to China is found to have more than the average amount of problems, CIQ increases its inspections on those products.

World's Second Busiest Port Keeps Shanghai CIQ Busy

18. (SBU) According to Xu, in 2008 Shanghai ports handled over 27 million TEU, making Shanghai the world's second busiest port. As the largest import/export port in China, Shanghai CIQ plays a leadership role among other CIQ units in East China. In 2008, CIQ Shanghai inspected 1.5 million batches of industrial products, 147,000 batches of animal and plant products, 690,000 batches of wood and packing material, and 170,000 batches of fruit and cosmetics. Shanghai CIQ oversaw the inspection of food and products in 2008 arriving and departing on over 24,000 vessels and 156,000 aircraft. Shanghai CIQ, which has over 1,700 employees and 15 district branches, uses its own trained and licensed inspection staff for most inspections; however, it also has agreements in place with other CIQ units in East China to share testing services on products in which they specialize. The district branches carry out random inspections on exporting enterprise located in their respective jurisdictions. In addition, they try to raise general awareness of food and

product safety among exporting companies. There are also four technical support teams each specializing in a specific area, such as animal and plant products, machinery, appliances, etc. Standards are set for each product that requires testing, but these standards can change from time to time. According to Xu,

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CIQ units find approximately the same percentage of non-compliant goods in both imports and exports. After CIQ issues a certificate of approval, it notifies Customs for clearance purposes.

19. (SBU) Regarding exported products, Xu explained that AQSIQ uses the importing country's standards for clearance. For example, if a product is being exported to the United States and requires inspection by the United States, AQSIQ bases its inspection on U.S. safety standards. For example, all-terrain vehicles (ATVs) were not originally on the mandatory inspection catalog; however AQSIQ placed ATVs on the mandatory inspection list after the United States recently set safety requirements on ATVs. In general, Shanghai CIQ uses a risk management system to carry out all the inspections; it particularly targets the highest risk products. Besides complying with the technical standards of the importing country, AQSIQ also sets its own "specialized" standards for certain categories of products. It particularly emphasizes the safety of food exports, requiring all food exporting companies to register with Shanghai CIQ. Xu noted that AQSIQ publishes all its standards through a variety of sources, such as the internet, and it actively works with producers to ensure they fully understand the requirements of the importing country. CIQ also helps enterprises establish and manage quality control programs, particularly emphasizing quality control of raw materials used as inputs. Shanghai CIQ also encourages producers to have their own testing labs and rely more on their own abilities to ensure products meet export requirements.

CIQ Welcomes More Cooperation and Info on U.S. Standards

110. (SBU) Xu acknowledged that different ports in China may have different procedures, which could cause variation in the interpretation of regulations by different CIQ units. However, CIQs do not report to municipal authorities; they report to AQSIQ headquarters in Beijing, so technically all CIQs should have the same standards and procedures. Xu emphasized that although Shanghai CIQ plays an essential role in monitoring the safety of imports and exports, the responsibility lays squarely with the importer/exporter and the producer. Xu concluded by welcoming technical assistance and more collaboration between governments on food and safety issues. He particularly welcomed more information about U.S. quality and safety requirements, saying CIQ can only meet those standards of which it is aware. He also encouraged an increase in visits from U.S. officials and agencies and looks forward to creating a more "positive attitude" towards Chinese-made products. (Note: Xu spoke highly about the recent cooperation with the U.S. Consumer Product Safety Commission and conference that was co-hosted by the two agencies. End Note)

An Up Close Look at the Inspection Process

111. (SBU) To demonstrate first-hand how a manufacturer operates in compliance with CIQ inspection standards, CIQ arranged for the delegation to tour the Chung Hwa pencil factory, which produces 1.3 billion pencils a year, and meet Chung Hwa General

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Manager Shi Lihua. About half of production is exported to 54 countries and regions. Because of its large amount of exports, Chung Hwa has a long-standing working relationship with CIQ. Following a tour of the printing and painting divisions of the pencil factory, the delegation was then shown the quality and

safety inspection areas that tested lead quality, wood strength, and weight standards. Shi said the Chung Hwa inspection team works closely with CIQ to ensure product safety, quality, and consistency under CIQ regulations.

U.S. Companies Weigh In On Transportation Security Regs

¶12. (SBU) In a meeting with Shanghai AmCham and U.S.-China Business Council members, shipping and logistics company representatives supported U.S. shipping security measures but requested more outreach and information sharing on new regulations. APL China Vice President William Chan voiced his support for 10+2, saying early notification requirements had a positive effect on carriers because they were receiving more timely information about their cargo. He noted that shippers are generally providing the information in time. Sometime shippers fail to report all the necessary information, but it is incumbent upon the carriers to be supportive of the shippers. On the issue of third party validations under the Customs Trade Partnership against Terrorism (C-TPAT), FedEx China Senior Vice President Eddie Chan said that he is seeing benefits from the program because clearance time is shorter and information is more reliable. PWC Transportation Consultant Michael Jiang said that, generally speaking, it is not difficult to get the required information under C-TPAT from a U.S. subsidiary; however, non-US companies do not have a good understanding of the strict requirements under the program. Goodyear Tire Asia Pacific General Manager for Global Sourcing Manoj Mehta added some companies may view it as a trade secret issue rather than a tracking issue.

¶13. (SBU) Mehta said the biggest problem is that many companies do not know what information to provide and how to provide it. He added that Goodyear provides internal training on the U.S. security measures, but the manufacturers view the measures from view the measures as a "real headache." He urged U.S. CBP to be more proactive on providing information and training on 10+2 and other new security measures. APL urged more consistent implementation among U.S. ports and that CBP provide ample training and transparency for manufacturers to understand the new legislation and implementing regulations.

Against 100 Percent Screening

¶14. (SBU) On U.S. one hundred percent screening requirements, Jiang maintained that China Customs does not have the capability to implement the requirement. The Chinese attempted a similar hundred percent requirement for shipments entering China during the summer 2008 Beijing Olympics. Due to high volumes and technology limitations, however, the inspection target was not physically possible. APL's Chan agreed that 100 percent scanning is impossible and will greatly delay shipments if there is no high-tech solution available. To illustrate this, he said

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that at Shanghai's Waigaoqiao Port it takes two minutes to scan a single container. To scan the millions of TEU that pass through the port every year, it would take massive amounts of time, money and equipment.

Carriers Should Not Be Responsible for IPR Problems

¶15. (SBU) When asked for suggestions on how the U.S. customs-related legislation can better protect against the importation into the United States of counterfeit goods, APL's Chan emphasized that the carriers cannot be held responsible. Carriers simply do not have the means or expertise to detect and enforce. He added that the only thing they can do is turn information on IP violations over to the authorities when it is found. Shippers and importers should ultimately be held accountable for IPR violations - particularly the shippers since they are the ones that fill out the customs declarations. Also, it is difficult for customs administrations on either side to

fully screen for IP infringing goods because there is not sufficient manpower.

Praise for China Customs, But Issues Remain

¶16. (SBU) APL's Chan said he has seen significant improvement in China Customs' consultation process with businesses. Shanghai Customs is particularly welcoming of industry input. AmCham Shanghai has found Shanghai Customs to be very cooperative and currently has a project to help Shanghai Customs to address some of the issues they face. They are also urging Shanghai Customs to adopt international standards in risk management procedures. Chan voiced frustration over inconsistencies in clearance procedures, valuation amounts and regulation interpretation between ports in China.

Shipping Industry Grievances

¶17. (SBU) Of particular concern for all AmCham members is the unequal treatment for foreign companies doing business in China. Samantha Chin, AIG Manager of Liability Insurance, pointed out that foreign companies are required by their own corporate regulations to carry insurance policies on shipments. Extensive due diligence, including inspection and quality assurance is performed by the insurance companies to minimize product liability. Unfortunately, these foreign firms are competing with local manufacturers that cut corners and do not purchase insurance when shipping their products. This not only compromises product reliability and safety, but it also puts the foreign companies at a disadvantage. Chin urged the United States to help level the playing field by requiring all companies shipping to the United States to purchase insurance on the freight. FedEx's Chan raised the issue of an amendment to the Chinese Postal Law, currently under consideration. Under the proposed amendment, foreign carriers are barred from delivering "documents", defined as anything carrying information. Hardest hit will be express carriers such as UPS and FedEx. Since introduction of this proposed legislation in China, these firms have used every possible attempt to block

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passage of this discriminatory legislation.

CSG - China's Second Largest Shipping Titan

¶18. (SBU) China Shipping Group (CSG) President Li Shaode, Vice President Zhang Guofa, China Shipping Container Lines Co. (CSCL) Managing Director Huang Xiaowen, CSCL America Lines Division General Manager Chen Shuai and other China Shipping executives outlined their company's strategy and expressed their views on U.S. transportation safety measures for the visiting staff. China Shipping is a state-owned enterprise and China's second largest shipping conglomerate. The company is based in Shanghai and is the holding company of three publicly listed companies: China Shipping Development, China Shipping Container Lines and China Shipping (Hainan) Haisheng. The company has a total of 440 ships, including container ships, oil tankers, bulk cargo ships, passenger ships and special cargo ships. The container fleet has a capacity of 490 thousand TEUs. Zhang explained that in 2008, CSG carried 8.58 million TEU of Chinese exports to the United States (6 percent of China's total export volume to the United States) and 2.08 TEU of U.S. exports to China (8 percent of total U.S. exports to China). Currently CSG has seven weekly trans-Pacific shipments between the United States and China with a capacity of 14,000 TEUs. Zhang noted that although container shipments had dropped sharply since the 2008 onset of the financial crisis, the company has confidence trade will rebound and is planning to increase its trans-Pacific capacity to 20,000 TEUs per week.

Large U.S. Footprint

¶19. (SBU) Zhang said that CSG has eight subsidiaries and has invested USD 20 million in the United States; the biggest CSG offices are in Los Angeles and Seattle. In total it has 339 employees in the United States, 320 of whom are local hires. CSG has signed agreements with the top one hundred largest importers in the United States, as well as a long-term contract with U.S. railway companies. It is also committed to environmentally-friendly terminals. Zhang noted that in 2006 and 2007, the Port of Los Angeles-Long Beach gave CSG an "environmentally friendly" award for its high standards and compliance with environmental regulations.

CSG Committed to Anti-terrorism Measures

¶20. (SBU) According to Zhang, CSG is committed to cooperation with the United States on anti-terrorism measures and complies with all U.S. Customs and Border Protection (CBP) requirements to submit data in advance of the shipment's arrival. When asked whether customs processing times were slower because of increased security measures, Huang explained that when the measures were initially implemented, processing times slowed because shippers and carriers were not accustomed to the requirements. Delays are also caused because of the requirement to submit data so far in advance. Huang estimated that over 10,000 "local suppliers" use CSG to ship products to the United States, and it is often takes a long time to obtain background

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information on local "suppliers".

¶21. (SBU) Zhang affirmed the company's commitment to the C-TPAT program. CSG has a dedicated officer in the United States to coordinate with CBP. CSCL America Lines Division General Manager Chen said that joining C-TPAT gave no particular advantage to CSG because most of its competitors had already joined. He also noted that CSCL does not have any problem with the validation process. Nor does the company have any problem with the background verification of personnel. CSCL Managing Director Huang said that as a result of joining C-TPAT it is "easier to communicate with CBP" because it has appointed many officers to assist with the program. Cooperation between China and U.S. Customs had improved because of the program. In addition, if a problem arises regarding a shipper, it is now easier to get cooperation from both the Chinese and U.S. sides, which indirectly helps the carrier as a "middle man". Chen suggested that although most carriers are well aware of the program, CBP can do better on outreach to customers so they can better cooperate and "realize the benefits of C-TPAT," Huang agreed, saying when CBP helps CSG's customers, that outreach helps CBP to carry out its USG-assigned responsibility.

A Bumpy Start to the 10+2 Rule Implementation

¶22. (SBU) On the "10+2" rule, Chen expressed several difficulties about collecting accurate information from Chinese customers. First, they do not know how to accurately describe the cargo on the manifest because of language barriers. The Chinese customers are also largely unfamiliar with the requirement. Second, it is sometimes difficult to provide accurate consignee information because the Chinese side is confused about U.S. geography, does not know the exact U.S. address, or the address changes at the last minute. CSG also incurred increased costs because the company has to hire more staff to collect the information about the suppliers, as well as collect the data about the shipments. Chen said the new regulation would also increase its shipping cost, which will eventually be shared by its customers.

¶23. (SBU) Huang also reiterated the concern, saying "the carriers' cost has increased significantly due to the new regulation, and it's very hard to get information three days or more in advance." He added some goods are already shipped out before the document is completed. Zhang added that "if the goods are returned back to us, the increased cost will be shared

by us." Zhang asked if it is possible to grant China Shipping a longer "grace period" to become familiar with the new requirements. He emphasized that it is important for U.S. CBP to get feedback from the carriers before they release new regulation.

Not Responsible for Transporting Pirated Goods

¶24. (SBU) Regarding a question about the shipment of IP-infringing goods, Zhang explained that the company faces different challenges on IP than it does with security issues. It is virtually impossible for the carrier to know whether the

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goods it is carrying are pirated or not. Zhang maintained that the responsibility to ferret out counterfeit goods lies squarely with each country's customs service. Nevertheless, Zhang emphasized that CSG will cooperate one hundred percent with counterfeit goods investigations.

¶25. (SBU) Zhang relayed two requests to the U.S. Government, saying that CSG hopes the Chinese and U.S. governments will cooperate closely to promote bilateral trade and the facilitation of the shipping business. The reduction of U.S. Customs clearance costs would be particularly helpful. In addition, CSG would like to see an easier way for its crew members to disembark in the United States for periods of rest. (Note: In a side conversation Zhang explained that it is very difficult for crew members to obtain and maintain current U.S. visas when they are underway for lengthy periods.) Zhang noted that CSG had signed an agreement with E.U. ports to allow its crews to disembark.

Yangshan Port - Big Drop in Container Throughput

¶26. (SBU) During the staffdel's visit to Shanghai's Yangshan Deepwater Port, Shanghai Shengdong International Container Terminal General Manager Jiang Gongsheng said container throughput had dropped significantly since the fourth quarter of 2008, as a result of weak trade activities. In the first half of 2008, container throughput was 20,000 per week and currently, it only has 7,000 containers per week. Jiang also pointed to the port and said "usually we would not see many empty spaces on the port, which should be filled with containers." In addition, General Manager Jiang said shipments to the United States and the European Union have dropped more significantly than shipments to Southeast Asia, due to the more severe recessions in those regions. He also noted that around 70 percent of the container throughput at the port is transshipments from other cities around the Yangtze River Delta.

Meeting with U.S. Consulate's Consular Section

¶27. (SBU) During the staffdel's visit to the Consular Section of the United States Consulate General in Shanghai, Consular Officers outlined the work load and current issues in the American Citizen Services (ACS) and the Non-Immigrant Visa (NIV) Units. The Shanghai Consular Section is one of the busiest in the world. The Consular Section provides services for the 27,000 Americans residing in the Shanghai consular district and approximately 50-60,000 Americans visiting the consular district on any given day, while the section saw an increase of 17 percent in requests for American citizen services, the majority being notary and passport services. The ACS Unit provides visitation services on a monthly basis to 19 American citizens currently incarcerated or detained in the Shanghai consular district. In terms of visa services, the Shanghai Consular Section is the 12th busiest non-immigrant visa (NIV) issuing post in the world; in 2008, Shanghai Consular Officers adjudicated about 175,000 NIV applications. The Shanghai consular district (Shanghai and the provinces of Jiangsu, Zhejiang, and Anhui - home to 208 million persons) has the

highest visa issuance rate of all visa issuing posts in China.

SAO Concerns Highlighted

128. (SBU) The Shanghai NIV section is also one of the world's busiest posts in numbers of Security Advisory Opinions (SAO) requests to Washington, particularly Visas Mantis cables regarding possible transfer of sensitive technology. Recently, the average wait time for a response from working partners in Washington for an SAO request has been over 3 months, an increase over former wait times that were usually under 4 weeks.

This extra delay has caused cancellation of travel plans for many visa applicants traveling to the United States for academic, employment, training, research and purchasing purposes. Consular Officers noted that the SAO response backlog in Washington has created a public relations issue for the Shanghai Consular Section and posed a discernible strain on U.S.-China bilateral relations. After a brief question and answer session, mainly focusing on understanding SAO issues, the staff delegation members were then shown an insider's view of consular operations for the Information, NIV, and ACS Units on a typical high-volume day.

129. (SBU) The Consular Section Information Unit's Congressional correspondent introduced herself as the point of contact for congressional inquiries to the Shanghai Consular Section. Congressional inquiries should be emailed to consularshangh@state.gov. The group saw live NIV processing, including data entry of the NIV applications, biometric (10-fingerprint) data collection, Consular Officers conducting visa interviews, and printing of a U.S. visa. Last, the delegation walked through the ACS Unit, was shown typical notary and passport services, and was introduced to the ACS Unit Foreign Service National employees who are key resources in helping service American citizens in the Shanghai consular district.

130. (SBU) This report has been cleared by Senate Finance Committee International Trade Counsel Amber Cottle.
CAMP